TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 1017 - SB 960

March 8, 2015

SUMMARY OF BILL: Requires a health insurance contract or policy, issued on or after January 1, 2016, to provide benefits and coverage for the treatment of autism spectrum disorders that are at least as comprehensive as those provided for other neurological disorders. Prohibits the exclusion or denial of treatment or imposition of dollar limits, deductibles, or coinsurance based solely on the diagnosis of autism spectrum disorder. Prohibits the exclusion or denial of coverage for medically necessary behavioral therapy services. Benefits are subject to deductible and copayment requirements and benefit limits. Establishes maximum yearly benefits for behavioral therapy of $50,000 for an eligible person up to nine years of age and $25,000 for an eligible person between the ages of nine and sixteen.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – Exceeds $80,796,300/FY15-16
Exceeds $161,592,600/FY16-17 and Subsequent Years

Increase Federal Expenditures – Exceeds $138,150,200/FY15-16
Exceeds $276,300,400/FY16-17 and Subsequent Years

Potential Impact on Health Insurance Premiums (required by Tenn. Code Ann. § 3-2-111): Such legislation will result in an increase in the cost of health insurance premiums for autism benefits being provided by plans that do not currently offer these benefits at the proposed mandated levels. It is estimated that the increase to each individual's total premium will be less than one percent. A one percent increase in premium rates could range between $50 (single coverage) and $140 (family coverage) depending on the type of plan.

Assumptions:

- According to the Centers for Disease Control (CDC), the prevalence of autism spectrum disorders is one in 88 children at the age of eight according to the CDC Autism and Developmental Disabilities Monitoring Network. The CDC states that most individuals are diagnosed with an autism spectrum disorder by this age.
- Based on information provided by the Bureau of TennCare (the Bureau) in 2013, there were 516,114 TennCare enrollees between the ages of 3 and 16. Based on the CDC ratio of 1 in 88 children, the Bureau assumes that 5,865 enrollees in this age range may suffer from an autism spectrum disorder.

- The Bureau assumes 80 percent of these enrollees potentially suffering from an autism spectrum disorder, or 4,692 enrollees, will be diagnosed and treated under the provisions of the bill.
- The Bureau assumes that the mandated applied behavior analysis (ABA) treatment will cost $100 per hour. The $25,000 and $50,000 benefit limits are not applicable to the Medicaid population.
- The Bureau estimates that the mandated ABA treatment will cost $431,664,000 [4,692 x (20 hours x 46 weeks x $100 supervised therapy)] for children between the ages of three and 16.
- The information provided in 2013 included current spending on autism treatment through the TennCare program to be $6,815,274. For purposes of this analysis, it is assumed this amount has remained constant.
- It is estimated that the net increase in cost to the TennCare program of the mandated ABA treatment will be $424,848,726 ($431,664,000 - $6,815,274).
- Of this amount, $148,548,357 will be state expenditures at 34.965 percent and $276,300,369 will be federal expenditures at 65.035 percent.
- Based on information provided by the Department of Finance and Administration, Division of Benefits Administration in 2013 regarding a similar bill, the state's contracted behavioral health organization designated applied behavioral analysis as evidence informed; therefore, the treatment in the proposed legislation has been a covered benefit by the State, Local Education, and Local Government plans administered by the Department since 2013. This could change with the procurement of a new BHO contract as there is little concurrence among carriers regarding this treatment. If Benefits Administration is mandated to cover ABA against the clinical determination of its carrier, the cost could range from $30,000- $50,000 per patient per year.
- Any local government health plans that are not part of the state sponsored health plans could incur an increase in expenditures if the offered coverage does not meet the mandates of the proposed legislation. Due to a number of unknown factors, such as the type of plans that are offered and the current coverage of those plans, any additional increase to local government expenditures cannot be determined but is reasonably estimated to be not significant.
- The Department of Commerce and Insurance (DCI) is responsible for regulation of the provisions of the bill. Any cost incurred due to regulation can be accommodated within existing resources without an increased appropriation or reduced reversion.
- Federal 45 C.F.R. §155.70 authorizes a state to require a qualified health plan (QHP) to offer benefits in addition to the essential health benefits. If the state-required benefits are in addition to the essential health benefits (EHB), then the state must make payments to defray the cost of the additional required benefits to an enrollee or directly to the QHP issuer on behalf of the enrollee.
- According to DCI, the bill imposes a health insurance benefit mandate that exceeds the benefits provided under the Tennessee EHB plan.
- Pursuant to the Patient Protection and Affordable Care Act (PPACA), states are required to defray the cost of benefit mandates enacted after December 31, 2011, that require coverage of benefits by qualified health plans that exceed benefits included in the state's EHB benchmark plan.

- According to DCI, a state may defray the cost of a mandate by reimbursing the health insurance carrier for the amount of premium attributed to the new benefit, or for the insurance carrier's actual costs. DCI assumes the state will reimburse the health insurance carriers for the amount of premium attributed to the new benefit.
- In a census released by the U.S. Department of Health and Human Services, 229,000 Tennesseans have obtained health coverage on the federally facilitated exchange as of February 2015. In addition, based on data currently provided by carriers, the DCI estimates that approximately 158,000 individuals have obtained a QHP off the exchange. Therefore, the total QHP population is 387,000 (229,000 + 158,000) for calendar year 2015.
- The DCI estimates that 320,000 individuals will obtain coverage on the federally facilitated exchange for calendar year 2016. This number is based on consideration of the projected increase of exchange enrollees, transition plans that will cease to be offered and therefore will enter the QHP market, and the number entering the QHP market due to the definition of small employer changing to encompass 50 to 100 employees.
- In addition to the 320,000 on exchange QHPs, the DCI estimates that off exchange QHP enrollment will experience a 15 percent increase therefore anticipating a total of 181,700 (158,000 x 1.15) off exchange QHPs enrollees for calendar 2016.
- The Department, therefore, estimates a total QHP population of approximately 501,700 (320,000 + 181,700) for calendar year 2016.
- Based on cost data provided by health insurance carriers offering QHPs, DCI estimates that the average additional cost per enrollee over a six month period is $13.00, resulting in an increase in expenditures of $13,044,200 in calendar year 2015 [501,700 enrollees x ($13 x 2 six-month periods).
- Current federal rules only apply through calendar years 2015 at which time the federal Department of Health and Human Services will reevaluate EHB determinations. For purposes of this analysis, the fiscal impact is only applied to calendar year 2016 under the assumption that current rules will remain consistent.
- The total increase in state expenditures is estimated to be at least $161,592,557 ($148,548,357 + $13,044,200).
- The total increase in federal expenditures is estimated to be at least $276,300,369.
- The provisions of the bill apply to any policy that delivered, issued for delivery, or renewed on and after January 1, 2016; therefore, the fiscal impact in FY15-16 will be for one-half year resulting in:
    - State expenditures of $80,796,279 ($161,592,557 x 0.50); and
    - Federal expenditures of $138,150,185 ($276,300,369 x 0.50).
- Private sector health insurance premium impact: The provisions of the bill will result in an increase in covered individuals receiving benefits for autism spectrum disorders. Health insurance premiums will increase to cover the costs of the additional benefits According to the *Health Insurance Mandates in the States 2010* report by the Council for Affordable Health Insurance (CAHI), the estimated cost to health insurance for autism benefits ranges from one to three percent of the total premiums nationwide. It is estimated that the increase in Tennessee to each individual's total premium will be similar to those nationally. Based on a 2011 report by the Fiscal Review Committee staff, a one percent increase in premium rates will range between $50 (single coverage)

and $140 (family coverage), and a three percent increase in premium rates will range between $154 (single coverage) and $414 (family coverage) on average depending on the type of plan.

IMPACT TO COMMERCE:

Other Impact to Commerce - Due to a number of unknown factors an estimated impact to commerce and jobs cannot be quantified. The net impact to the insurance and healthcare industries is estimated to be positive. The net impact to businesses, based on adjusted insurance premiums, is estimated to be negative.

Assumptions:

- It is estimated that any companies that are currently providing health insurance coverage to their employees will incur an increase in costs if ASD coverage is not currently offered at the level mandated by the proposed legislation. Any increase is estimated to be less than one percent. Because actual business expenditures for businesses are unknown, an estimated cost cannot be quantified.
- Businesses in the health care industry that provide ASD services will incur an increase to business revenue because more people will be able to receive services if they are covered by insurance.
- An exact impact to commerce and jobs cannot be determined.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Jeffrey L. Spalding, Executive Director

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